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BEFORE THE

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Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
)
Thayne, Wyoming)

Docket No. 99-55
RM-9458

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FURTHER REPLY COMMENTS OF KISN-AM LICENSE L.P.

KISN-AM License L.P. ("KISN-AM"), licensee of Station KOSY(FM), Spanish Fork, Utah, and affiliate to the licensee of Station KRAR(FM), Brigham City, Utah, hereby submits its Further Reply Comments in response to the Comments and Counterproposal filed on April 5, 1999, by Mount Rushmore Broadcasting, Inc. ("Mount Rushmore") in the above-captioned proceeding. By Public Notice dated October 27, 1999, the Commission requested that reply comments to Mount Rushmore's pleading be filed within 15 days of the date of the October 27 Notice. Consequently, these Further Reply Comments are timely filed.¹

As the Commission is aware, this proceeding was initiated by the Petition filed on December 20, 1998, by Mountain West Broadcasting ("Mountain West") in which Mountain West requested the allocation of Channel 294C1 at Thayne, Wyoming, as Thayne's first local

¹ Actually, the 15-day Mount Rushmore comment deadline fell on Thursday, November 11, 1999. However, since November 11 was a Federal holiday, the next business day for submitting reply comments is Friday, November 12, 1999.

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aural transmission service. In order to avoid the adverse effect of the proposed Channel 294C1 allocation on other local facility changes, Mountain West, in its April 5, 1999, Comments, proposed the substitution of Channel 290C1 for Channel 294C1 at Thayne. In addition, on April 5, 1999, Mount Rushmore submitted its Comments and Counterproposal to allocate Channel 294A at Thayne and 295A at Marbleton, Wyoming, to provide a first local aural transmission service to both Thayne and Marbleton instead of only one local service to Thayne. On April 20, 1999, KISN-AM filed Reply Comments in response to the proposals of both Mountain West and Mount Rushmore. Specifically, KISN-AM (i) supported Mountain West's proposed substitution of Channel 290C1 at Thayne and (ii) proposed the substitution of Channel 239A for Channel 295A at Marbleton, in order to accommodate both Mount Rushmore's desire to provide an additional first local service to Marbleton and to avoid the adverse effect of the proposed Channel 295A allocation on the modification of KOSY.² The essential purpose of these Further Reply Comments is to reiterate KISN-AM's support of the allocation of Channel 239A at Marbleton.

As noted hereinabove, KISN-AM is the licensee of Station KOSY(FM), which operates on Channel 293C at Spanish Fork, Utah, and is also an affiliate of the licensee of KRAR(FM),

² As part of its April 5 Comments and Counterproposal, Mount Rushmore also urged the Commission to reexamine its FM allocation policy and institute a notice of inquiry to determine (1) whether its FM allocation policy satisfies the Commission's obligations under Section 307(b) of the Communications Act of 1934, as amended, and (2) whether the policy has had a detrimental effect in the enhancement of minority ownership of FM broadcast stations. KISN-AM reiterates its position stated in its April 20 Reply Comments that KISN-AM is not addressing Mount Rushmore's concerns regarding the FCC's allocation policies and is commenting only on Mount Rushmore's counterproposal to allot a Class A channel to Marbleton.

which operates on Channel 295C at Brigham City, Utah.³ Presently pending at the FCC is a modification application (File No. BPH-990524IF) to maximize the coverage of Station KOSY. That application is contingent on the Commission's grant of a pending modification application (File No. BPH-990524IE) to relocate the facilities for Station KRAR. As set forth in the Engineering Statement attached as Exhibit A to KISN-AM's April 20 filing, prepared by W. Jeffrey Reynolds, of the firm of du Treil, Lundin & Rackley, Inc., KISN-AM's consulting engineer, KISN-AM supports the substitution of Channel 239A for Channel 295A at Marbleton in order to avoid the adverse effect that Mount Rushmore's proposed Channel 295A allocation at Marbleton would have on the KOSY and KRAR applications. Although at least 18 other channels are also available to allocate to Marbleton,⁴ Mr. Reynolds demonstrated that Channel 239A would be preferable to the Channel 295A allotment since Channel 239A could be upgraded to a Class C1 facility at Mount Rushmore's reference coordinates. (*Id.*)

In addition, although in its April 20 filing, KISN-AM supported the substitution of Channel 290C1 for Channel 294C1 at Thayne, Mr. Reynolds has reviewed the proposals again and has prepared an updated Engineering Statement (attached hereto as Exhibit I) in which he demonstrates that the allocation of Channel 279C1, rather than 290C1, for the initially proposed Channel 294C1 at Thayne would be preferable because the Channel 279C1 reference point is located over 20 kilometers closer to the Thayne reference point, without significant intervening

³ Trumper Brigham City License LLC ("Trumper Brigham City") is the licensee of Station KRAR. Both KISN-AM and Trumper Brigham City are ultimately owned and controlled by Jeffrey Trumper.

⁴ In his April, 1999 Engineering Statement, Mr. Reynolds demonstrates the availability of alternate channels 223, 224, 234, 239, 240, 241, 250, 253, 255, 263, 268, 270, 271, 274, 276, 278, 279, and 281 to provide a first-time local aural Class A service to Marbleton.

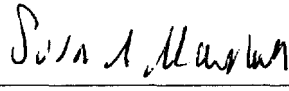
terrain (*Id.*). The allocation of Channel 279C1 at Thayne would also have no adverse affect on the planned KOSY and KRAR modifications.

KISN-AM reiterates the public interest benefits of the Channel 239A allocation at Marbleton in addition to the allocation of Channel 279C1 at Thayne. First, the two allocations would enable the residents of both the Marbleton and Thayne communities to receive their first local aural transmission service. Second, the substitution of Channel 239A at Marbleton would result, with the potential upgrade of Channel 239 to Class C1 status, in an increase of 1 mV/m service to over 6,600 more people than the allocation of a Class A station operating on either Channel 295 or Channel 239 at Marbleton (*See Exhibit I hereto*). Furthermore, both the allocation of Channel 239A at Marbleton and the allocation of Channel 279C1 for Channel 294C1 at Thayne would eliminate the conflict between the Mountain West and Mount Rushmore proposals and would do so without prejudicing the KOSY and KRAR applications (*Id.*).

WHEREFORE, for the reasons set forth herein and in its April 20, 1999 Reply Comments, KISN-AM License L.P. hereby supports (i) the allotment of Channel 239 as a Class A allocation at Marbleton, Wyoming, and (ii) the allotment of Channel 279 as a Class C1 allocation at Thayne, Wyoming.

Respectfully submitted,

KISN-AM LICENSE L.P.

By: 
Susan A. Marshall

Its Attorney

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November 12, 1999

bill/c:/wpdocs/kisnam.p

EXHIBIT I

TECHNICAL STATEMENT
PREPARED IN SUPPORT OF THE
FURTHER COMMENTS OF KISN-AM LICENSE L.P.
IN REPONSE TO COMMENTS AND COUNTERPROPOSALS
IN THE NOTICE OF PROPOSED RULE MAKING IN
DOCKET NO. 99-55
THAYNE, WYOMING

This technical narrative and associated exhibits were prepared in support of Further Comments of KISN-AM License L.P. ("KISN-AM") in response to the Comments and Counterproposals in the Notice of Proposed Rule Making in MM Docket No. 99-55 ("NPRM"). Specifically, this technical exhibit provides information supporting the allotment of channel 279C1 in lieu of channel 290C1, for channel 294C1 at Thayne, Wyoming, and the allotment of channel 239A at Marbleton, Wyoming in lieu of channel 295A.

Background

At the request of Mountain West, the Commission issued the NPRM which proposed the allotment of channel 294C1 at Thayne, Wyoming as that community's first local aural transmission service. However, in its Comments in the NPRM, Mountain West proposed to substitute 290C1 for channel 294C1 due to the potential for the initial channel 294C1 proposal to effect other local facility upgrades. Mountain West indicated that channels 299C1 and 231C1 were also available as substitutes for channel 294C1. In addition, Mount Rushmore filed Comments and Counterproposal to allot 294A at Thayne and channel 295A to Marbleton, Wyoming as a first local aural transmission service.

KISN-AM is the licensee of Station KOSY(FM) on channel 293C at Spanish Fork, Utah. KISN-AM and an affiliated timely filed "contingent" applications for construction permit in this proceeding (BPH-990524IF) which (1) propose to modify

KOSY's facilities to maximize the station's coverage and (2) propose to relocate station KRAR on channel 295C at Brigham City, Utah (BPH-990524IE). However, the proposed allotment of channel 294C1 at Thayne and the proposed allotment of channel 295A at Marbleton would adversely affect the proposed modification of KOSY's facilities as each would be short-spaced to the proposed KRAR operation. Therefore, KISN-AM supports (1) the substitution of channel 279C1 for 294C1 at Thayne and (2) the allotment of channel 239A at Marbleton. The proposed changes are as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Thayne, Wyoming	--	279C1
Marbleton, Wyoming	--	239A

Channel 279C1, Thayne, Wyoming

The substitution of channel 279C1 is preferable to the substitution channel 290C1 for the initially proposed channel 294C1 allotment at Thayne. First, the fully-spaced allotment reference point for channel 279C1¹ is located 13.3 kilometers from the Thayne reference point², whereas the fully-spaced channel 290C1 reference point³ is located 34.1 kilometers from the Thayne reference point. Thus, the channel 279C1 reference point is located 20.8 kilometers closer to the Thayne reference point than the channel 290C1 reference point. Second, there is significant intervening terrain between the channel 290C1 reference point and the Thayne reference point as illustrated by Figure 1, which is a terrain profile between the

¹ The channel 279C1 reference point is located at N42°49'05", W110°55'01".

² The Thayne reference point, obtained from the USGS Geographic Names Information System Population of Places Database, is located at N42°55'15", W111°00'05" and is b

³ The channel 290C1 reference point is located at N42°46'27", W111°22'02".

KOSY's facilities to maximize the station's coverage and (2) propose to relocate station KRAR on channel 295C at Brigham City, Utah (BPH-990524IE). However, the proposed allotment of channel 294C1 at Thayne and the proposed allotment of channel 295A at Marbleton would adversely effect the proposed modification of KOSY's facilities as each would be short-spaced to the proposed KRAR operation. Therefore, KISN-AM supports (1) the substitution of channel 279C1 for 294C1 at Thayne and (2) the allotment of channel 239A at Marbleton. The proposed changes are as follows:

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¹ The channel 279C1 reference point is located at N42°49'05", W110°55'01".

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³ The channel 290C1 reference point is located at N42°46'27", W111°22'02".

two points. Also shown on Figure 1 is the "line-of-sight" (LOS) path based on a tower having an overall height above ground level of 100 meters and, as shown, the LOS path would be completely obstructed. On the other hand, there are no significant terrain features between the channel 279C1 reference point and the Thayne reference point as illustrated by Figure 2, which is a terrain profile between the two points. As indicated on Figure 2, the LOS path is not obstructed.

Figure 3 is a separation study which indicates that the channel 279C1 allotment reference point complies with the FCC's minimum distance separation requirements to all existing, authorized and proposed stations and allotments.

Channel 239A, Marbleton, Wyoming

As noted above, the proposed allotment of channel 295A at Marbleton will adversely effect the proposed modification of KOSY's facilities as it would be short-spaced to the proposed KRAR operation. However, it has been determined that there are at least 18 other channels available for allotment to Marbleton, namely, channels 223, 224, 234, 239, 240, 241, 250, 253, 255, 263, 268, 270, 271, 274, 276, 278, 279 and 281. Of these, channel 239A is preferred as a substitute for channel 295A as there would be no adverse effect on the planned KOSY facility modification. Furthermore, channel 239A is preferable to channel 295A as it is also upgradeable to Class C1 status at the allotment reference coordinates whereas channel 295 is not.

The attached Figure 4 is a tabulation of required separations pertinent to use of channel 239A at Marbleton. The allotment reference coordinates contained in Mount Rushmore's Comments and Counterproposal (Latitude 42°33'27" North, Longitude 110°05'58" West) have been utilized for distance

calculations. As shown, the allotment reference coordinates comply with the Commission's minimum distance separation requirements contained in Section 73.207 with respect to all existing, authorized and proposed stations and allotments.

The attached Figure 5 is a tabulation of required separations pertinent to use of channel 239C1 at Marbleton. As shown, the allotment reference coordinates comply with the Commission's minimum distance separation requirements contained in Section 73.207 with respect to all existing, authorized and proposed stations and allotments.

The attached Figure 6 is a tabulation of required separations pertinent to use of channel 295C1 at Marbleton. As shown, the allotment reference coordinates do not comply with the Commission's minimum distance separation requirements contained in Section 73.207.

The upgrade of channel 239 from Class A to Class C1 status will result in 1 mV/m service to 8,578 persons, whereas the channel 239A/295A allotment would provide 1 mV/m service to 1,879 persons. Therefore, substitution of channel 239A for channel 295A at Marbleton has the potential to increase 1 mV/m service to 6,699 persons (356 percent increase).

Coverage Contours

The FM predicted coverage contours were calculated from the allotment reference coordinates in accordance with the provisions of Section 73.313, except that uniform terrain was presumed in all directions.

Population Within 1 mV/m Contours

The population within each 1 mV/m contour was calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid was within each service area.

Conclusion

The proposed allotment of channel 294C1 at Thayne and the proposed allotment of channel 295A at Marbleton would adversely effect the proposed modification of KOSY's facilities. In order to eliminate the adverse effect, KISN-AM supports (1) the substitution of channel 279C1 for 294C1 at Thayne and (2) the allotment of channel 239A at Marbleton.



W. Jeffrey Reynolds

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201 Fletcher Avenue
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November 11, 1999

Figure 1

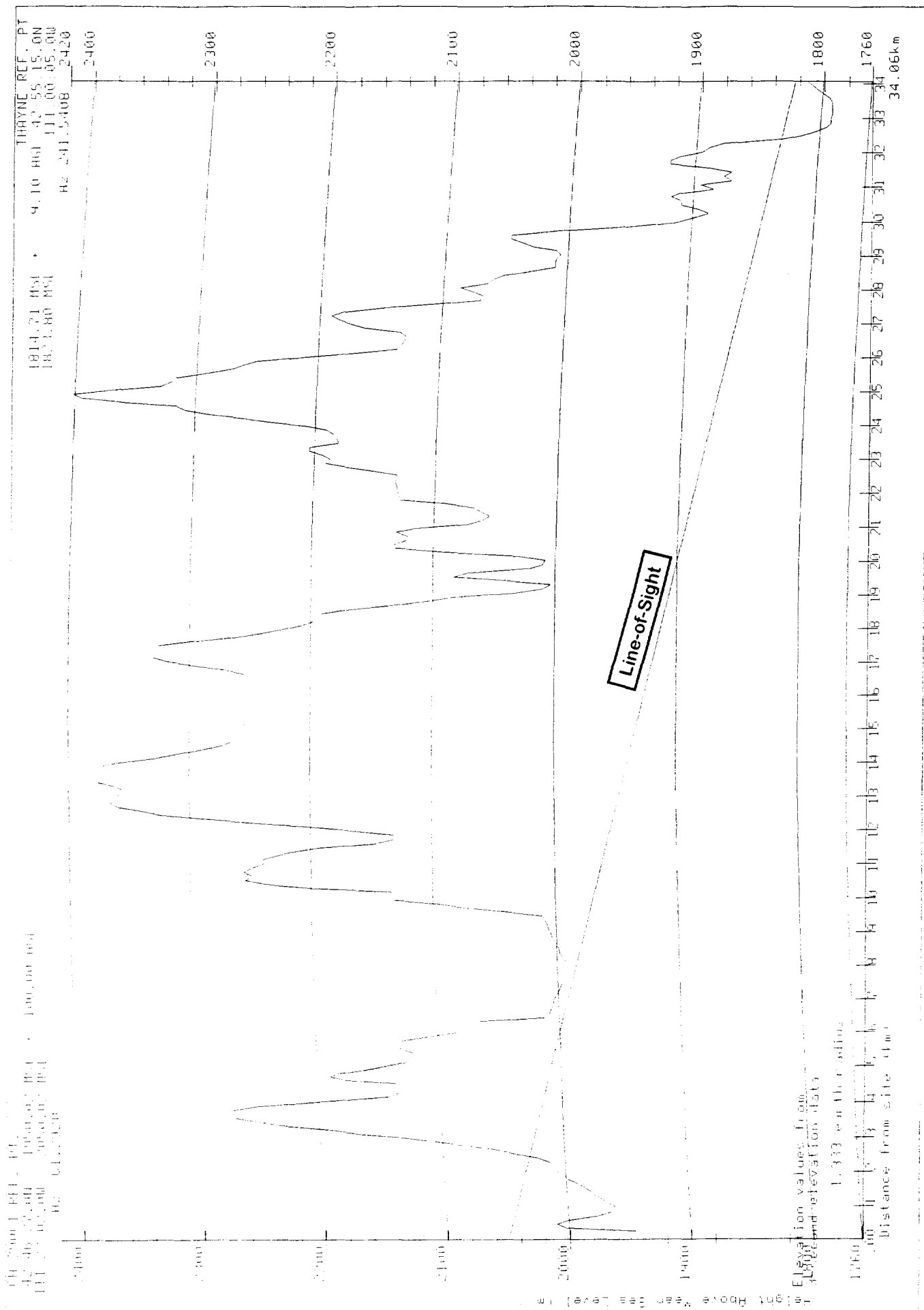
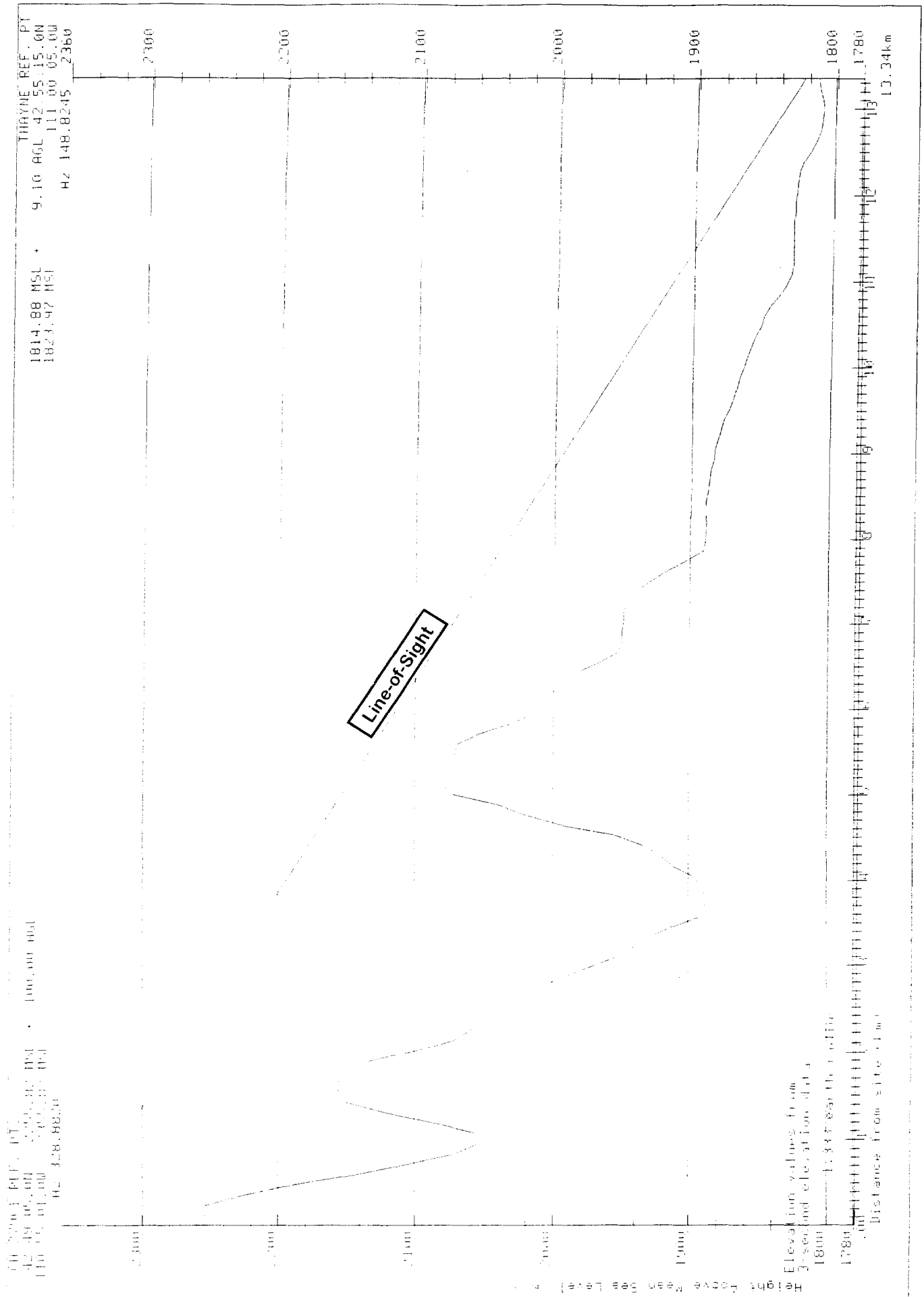


Figure 2



FM SEPARATION STUDY

Job Title :Ch 279C1 Thayne

Separation Buffer 32 km

FCC DB Date : 11/06/99

Channel 279C1 (103.7 MHz)

Coordinates : 42-49-05 110-55-01

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
K276DR LIC	Montpelier ID	BLFT940714TF	276D 103.1	0.01 375.0	42-23-22 111-23-05	218.9	61.17 .00	0 TRANS
Translator for KBZN, Salt Lake City, UT- Vertical polarization only								
KFTZ LIC	Idaho Falls ID	BLH940420KB	277C1 103.3	100. 201.0	43-21-06 112-00-22	304.2	106.69 24.69	82 CLEAR
FA USE PADD	Thayne WY	RM9458	279C1 103.7	.0 .0	42-49-05 110-55-01	.0	.00	
Drop-in counter-proposal with site restriction for Thayne, WY at 13.4 km southeast of community.								
KSKIFM LIC	Sun Valley ID	BLH911009KC	279C 103.7	53. 582.0	43-38-36 114-23-49	289.2	297.20 27.20	270 CLEAR
KSKIFM LIC	Sun Valley ID	BMLH980911KG	279C 103.7	53 582.0	43-38-36 114-23-49	289.2	297.20 27.20	270 CLEAR
K280EG LIC	Freedom WY	BLFT941024TB	280D 103.9	.010 202.0	43-01-23 111-04-21	331.0	26.09 .00	0 TRANS
Translator for KRIC, Rexburg, ID.								
KGNT LIC	Smithfield UT	BLH830311AK	280A 103.9	3.00 -40.0	41-48-44 111-47-31	213.0	133.00 0.00	133 CLOSE
NEW APP	Victor ID	BPH970813MB	282A 104.3	0.45 350.0	43-29-33 110-57-16	357.7	75.00 0.00	75 CLOSE
Transmitter location is in Wyoming								
NEW APP	Victor ID	BPH970814MS	282A 104.3	.540 329.0	43-29-34 110-57-17	357.7	75.03 0.03	75 CLOSE
Longitude is out of range for the state.								
NEW APP	Victor ID	BPH970815MF	282A 104.3	6. -215.0	43-35-54 111-05-16	351.0	87.80 12.80	75 CLOSE
Untimely filed								
ALC	Victor ID	Docket97-33	282A 104.3	.0	43-36-12 111-06-36	349.9	88.65 13.65	75 CLOSE
Effective 7-14-97 per D97-33								
NEW APP	Victor ID	BPH970814ME	282A 104.3	6.0 -155.0	43-36-27 111-06-58	349.6	89.19 14.19	75 CLOSE

** End of separation study for channel 279C1 **

FM SEPARATION STUDY

Job Title :Ch 239A Marbleton

Separation Buffer 32 km

FCC DB Date : 11/06/99

Channel 239A (95.7 MHz)

Coordinates : 42-33-27 110-05-58

Call	City		Channel	ERP(kW)	Latitude	Bearing	Dist..	Req.
Status	State	FCC File No.	Freq.	HAAT(m)	Longitude	deg-Tru	(km)	(km)
KZJH	Jackson		237C	100.	43-27-40	332.4	113.64	95
LIC	WY	BLH890714KA	95.3	322.0	110-45-09		18.64	CLEAR
FA USE	Marbleton		239A		42-33-27	.0	.00	
PADD	WY	RM9458	95.7	.0	110-05-58			

** End of separation study for channel 239A **

FM SEPARATION STUDY

Job Title :Ch 239C1 Marbleton

Separation Buffer 32 km

FCC DB Date : 11/06/99

Channel 239C1 (95.7 MHz)

Coordinates : 42-33-27 110-05-58

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KYCS LIC	Rock Springs WY	BLH861015KA	236C 95.1	100. 355.0	41-29-50 109-20-36	151.8	133.39 28.39	105 CLEAR
KZJH LIC	Jackson WY	BLH890714KA	237C 95.3	100. 322.0	43-27-40 110-45-09	332.4	113.64 8.64	105 CLOSE
FA USE PADD	Marbleton WY	RM9458	239A 95.7	.0	42-33-27 110-05-58	.0	.00	
NEW APP	Weston ID	BPH970904ME	240A 95.9	1.7 177.0	42-07-12 111-47-13	251.2	147.33 14.33	133 CLOSE
K240CP LIC	Evanston WY	BLFT961025TB	240D 95.9	.011 546.0	DA 41-21-04 110-54-20	206.7	149.75 .00	0 TRANS
Translator for KCSPFM, Casper, WY- Vertical Polarization Only								
NEW APP	Weston ID	BPH970904ML	240A 95.9	6.0 100.0	42-01-27 111-49-31	247.9	154.18 21.18	133 CLEAR

** End of separation study for channel 239C1 **

FM SEPARATION STUDY

Job Title :Ch 295C1 Marbleton

Separation Buffer 32 km

FCC DB Date : 11/06/99

Channel 295C1 (106.9 MHz)

Coordinates : 42-33-27 110-05-58

Call	City	Channel	ERP(kW)	Latitude	Bearing	Dist.	Req.
Status	State	FCC File No.	Freq.	HAAT(m)	Longitude	deg-Tru	(km)
K292AO	Cokeville	292D	.013	DA	42-05-20	233.2	86.45
CP	WY	BPFT960227TD	106.3	246.0	110-56-12		.00 TRANS
Translator for KSFI, Salt Lake City, UT.							
K292AO	Cokeville	292D			41-59-02	223.8	88.03
LIC	WY	BLFT134	106.3	.0	110-50-08		.00 TRANS
TRANSLATOR FOR KSFI, SALT LAKE CITY, UT.							
K292EY	Freedom	292D	.010		43-06-40	306.7	103.91
LIC	WY	BLFT980706TC	106.3	900.0	111-07-25		.00 TRANS
Translator for KPKYFM, Pocatello, ID							
Vertically Polarization Only							
	Superior	293C			41-46-12	132.9	127.93
ALC	WY	Docket98-109	106.5	.0	108-58-12		22.93 CLEAR
A filing Window for this Channel will be opened in a subsequent order.							
	Thayne	294C1			42-57-48	303.9	81.68
PADD	WY	RM9458	106.7	.0	110-55-53		-95.32 SHORT
site restriction 7.4 km NE							
	Thayne	294A			42-57-48	303.9	81.68
PADD	WY	RM9458	106.7	.0	110-55-53		-51.32 SHORT
Mount Rushmore Broadcasting, Inc. Allotment counterproposals.							
FA USE	Marbleton	295A			42-33-27	.0	.00
PADD	WY	RM9458	106.9	.0	110-05-58		-200.00 SHORT
Mount Rushmore Broadcasting, Inc. Allotment counterproposals.							
KRAR	Brigham City	295C	89.		41-47-06	244.7	196.00
APP	UT	BPH990524IE	106.9	631.0	112-13-55	SS	-74.00 SHORT
KRAR	Brigham City	295C	68.		41-15-27	234.1	242.00
LIC	UT	BLH850919KA	106.9	722.0	112-26-24		-28.00 SHORT
K296AT	La Barge	296D	.011	DA	42-19-27	215.7	31.95
LIC	WY	BLFT950808TC	107.1	683.0	110-19-35		.00 TRANS
Translator for KCSP, Casper, WY-							
Vertical Polarization Only-To Channel 249							

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
K296EQ CP	Cokeville WY		296D 107.1	.013 DA 244.0	42-05-20 110-56-12	233.2	86.45 .00	0 TRANS
Translator for KSOP, Salt Lake City, UT.								
K296EJ LIC	Freedom WY		296D 107.1	.010 DA 203.0	43-01-23 111-04-21	303.4	94.95 .00	0 TRANS
Translator for KUPI, Idaho Falls, ID- Vertical Polarization Only								
K296EG LIC	Jackson WY		296D 107.1	.002 DA .0	43-28-49 110-45-49	332.5	115.94 .00	0 TRANS
Translator for KZJH, Jackson, WY Vertical Polarization Only								
K296AQ LIC	Soda Springs, etc. ID		296D 107.1	.109 510.0	42-37-48 111-41-00	274.1	130.26 .00	0 TRANS
TRANSLATOR FOR KSOP-FM, SALT LAKE CITY, UT.								
K296AG LIC	Mount View, etc. WY		296D 107.1	.218 493.0	41-06-50 110-14-00	184.0	160.74 .00	0 TRANS
TRANSLATOR FOR KSOP-FM, SALT LAKE CITY, UT.								
KAOX CPM	Kemmerer WY		297C2 107.3	16.0 270.0	41-50-18 110-30-12	202.7	86.58 7.58	79 CLOSE

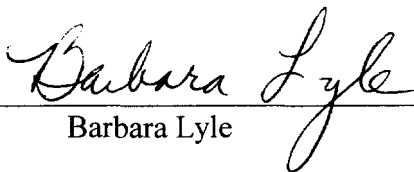
** End of separation study for channel 295C1 **

CERTIFICATE OF SERVICE

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that a copy of the foregoing "Further Reply Comments of KISN-AM License L.P." was sent this 12th day of November, 1999, by first-class United States mail, postage prepaid to:

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Barbara Lyle